

The claims encompassing the elected invention are claims 1 and 3 -23.

The Examiner has imposed a restriction requirement between claims 1 and 3 - 23, drawn to the dynamic mixer (denoted Group I by the Examiner), claims 2 and 28-32 drawn to a method for mixing dental impression materials in a static or dynamic mixer (denoted Group II by the Examiner), claim 24, drawn to a mixer closing part, (denoted Group III by the Examiner) and claims 25-26, drawn to a mixer shaft for a dynamic mixer, (denoted Group IV by the Examiner).

Applicants have elected Group I, with traverse.

Reconsideration and withdrawal of the restriction requirement is respectfully requested. Any search of the dynamic mixer is certain to include a search of the method for mixing dental impression materials in it as well as a search of the mixer closing part and a search of the mixer shaft; and a search of any of these is certain to include a search of the dynamic mixer as well. Accordingly, no additional burden would be placed on the Patent Office in searching all four groups together. By contrast, a very great burden will be placed on Applicants if this restriction requirement is maintained. Applicants will be subjected to the cost and effort in prosecuting four patent applications for an invention that should have been included in one, and will also be subjected to the continuing expense of maintaining four separate patents, whereas only one should be required to cover the full invention.

In addition, an additional burden will be placed on the public, in that the full scope of Applicants' exclusive rights will not be ascertainable from a single patent, and the public will have to find and study four separate patents to ascertain the full scope of Applicants' exclusive rights.

The great additional burden that will be placed on Applicants and the public in maintaining the restriction requirement is far greater than the slight, if any, additional burden that will be placed on the Patent Office in withdrawing the Restriction Requirement.

According to MPEP § 803:

"There are two criteria for a proper restriction requirement between patentably distinct inventions:

(A) The inventions must be independent ***or distinct***and

(B) There would be a serious burden on the Examiner if restriction is not required***."

The language of MPEP § 803 clearly indicates that a restriction requirement should not be made where there is not a serious burden on the Examiner if restriction is not required. As discussed above, there will be no serious burden on the Examiner in searching the four groups together.

It is therefore respectfully requested that the Examiner withdraw the restriction

requirement.

In the event that the Examiner does not find it possible to withdraw the Restriction Requirement, it is respectfully requested that the non-elected subject matter be rejoined with the elected subject matter upon allowance of elected subject matter.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, applicant requests that this be considered a petition therefor. Please charge the required Petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess to our Deposit Account No. 14-1263.

Respectfully submitted

NORRIS, McLAUGHLIN & MARCUS

By /William C. Gerstenzang/
William C. Gerstenzang
Reg. No. 27,552

WCG/tmo

875 Third Avenue
8th Floor
New York, New York 10022
(212) 808-0700